

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:05CV273-03-MU

JAMES FRANKLIN McCLELLAND,)
)
Plaintiff,)
)
v.)
)
OFFICER BUSH and OFFICER HARRIS,)
)
Defendants.)
)

ORDER

THIS MATTER comes before the Court on the Court's own motion.

According to the record, on November 9, 2005, the plaintiff filed a civil rights Complaint under 42 U.S.C. § 1983. By that Complaint, the plaintiff alleges that he was brutally assaulted by a fellow inmate at the Alexander Correctional Center and that Defendants were deliberately indifferent to the risk of harm to which he was exposed, and to his right to be protected from violence.

The record shows that on December 22, 2005, Defendants filed an Answer to the Plaintiff's Complaint. By their Answer, the Defendants deny the material allegations of the Plaintiff's Complaint and assert certain affirmative defenses, including the defense of qualified immunity and failure to state a claim for relief.

Accordingly, by the instant Order, the Court advises the parties that should they choose to file any dispositive motions, particularly motions for summary judgment, they must do so within forty-five (45) days of the date of this Order. In the event that the parties choose not to file any such motions, they should advise the Court of that fact within fourteen (14) days of the date of

this Order. Furthermore, inasmuch as the plaintiff is appearing pro se, the Court specifically advises him that under the provisions of Rule 56(a) of the Federal Rules of Civil Procedure, he may “move with or without supporting affidavits for a summary judgment” in his favor upon all or any portion of his claims.

NOW, THEREFORE, IT IS ORDERED:

1. That the parties have forty-five (45) days from the date of this Order in which to file any dispositive motions which they may choose to file. However, in the event that either party chooses not to file a dispositive motion, such party shall advise the Court of that decision within fourteen (14) days of the date of this Order;
2. That in the event any such dispositive motion is filed, the opposing party shall have thirty (30) days from the date of that party’s receipt of that motion in which to file a response with this Court; and
3. That the Clerk shall provide plaintiff with a copy of Rule 56 of the Federal Rules of Civil Procedure.

Signed: January 5, 2006



Graham C. Mullen
Chief United States District Judge

